

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|-----------------------------------|---|-------------------|
| PLUMBERS AND PIPEFITTERS LOCAL | : | CIVIL ACTION |
| UNION NO. 74 ANNUITY FUND, et al. | : | |
| | : | |
| Plaintiffs | : | |
| | : | |
| v. | : | |
| | : | |
| AMERICAN MECHANICAL, INC. | : | |
| | : | |
| Defendant | : | NO.: 05-050 (SLR) |

**MOTION FOR JUDGMENT BY DEFAULT BY THE COURT
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE
55(b)(2) AGAINST AMERICAN MECHANICAL, INC.**

Plaintiffs, Plumbers and Pipefitters Local Union No. 74 Annuity Fund, Plumbers and Pipefitters Local No. 74 Health and Welfare Trust Fund, Plumbers and Pipefitters Local Union No. 74 Pension Fund, (formerly the Pipefitters Local Union No. 80 Employers Joint Pension Trust Fund), Plumbers and Pipefitters Local No. 74 Apprenticeship Fund, Pipefitters Local Union No. 74 Educational/PAC Fund, (respectively, “Annuity Fund”, “Welfare Fund”, “Pension Fund”, “Apprenticeship Fund”, “Education/PAC Fund”, and, collectively, “Funds”), Local Union No. 74 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (“Union” and together with Funds, “Plaintiffs”), by their legal counsel, respectfully move this Court, pursuant to Fed. R. Civ. P. 55(b)(2), to enter default judgment in favor of the Plaintiffs and against Defendant, American Mechanical, Inc. (“Company” or “Defendant”) for unpaid contributions, contractual liquidated damages, interest and attorneys’ fees and costs incurred by the Funds pursuant to 29 U.S.C. §§1132(g)(2)(A)-(D). The Funds also request

that the Court order Defendant to produce its records for an audit of periods on and after January 1, 2005 to determine whether any additional monies are owed.

In support of this Motion, Plaintiffs rely upon the allegations in their Complaint, the Declaration of Scott Ernsberger¹, the Declaration of Timothy J. Snyder², the Declaration of Sanford G. Rosenthal, Esquire³ and the exhibits attached to this Motion.

The grounds for this Motion are as follows:

1. Prior to the commencement of this action, the Funds attempted to resolve this delinquency in an amicable manner.
2. The requested payments were not received and on January 31, 2005, the Complaint in this matter was filed. An Amended Complaint was filed on February 1, 2005. The Amended Complaint was served on Company on February 15, 2005, as appears from the Affidavit of Service filed with the Court.
3. No Answer to the Amended Complaint was filed by the Company.
4. On April 13, 2005, Plaintiffs filed a Request to Clerk to Enter Default against the Company pursuant to Fed. R. Civ. P. 55(a) and mailed a copy first class mail, postage prepaid to the Company. Default was entered on April 18, 2005.

¹ The Declaration of Scott Ernsberger ("Ernsberger Declaration") is attached to this Motion as Exhibit 1. The documents referred to in the Ernsberger Declaration are attached to this Motion as Exhibit 2 through 6.

² The Declaration of Sanford G. Rosenthal ("Rosenthal Declaration") is attached to this Motion as Exhibit 7. The document referred to in the Rosenthal Declaration is attached to this Motion as Exhibit 8.

³ The Declaration of Timothy J. Snyder ("Snyder Declaration") is attached to this Motion as Exhibit 9. The document referred to in the Snyder Declaration is attached to this Motion as Exhibit 10.

5. The Company is not an infant or incompetent person and as Company is a corporation it is not in the military service.

WHEREFORE, Plaintiffs seek the following relief:

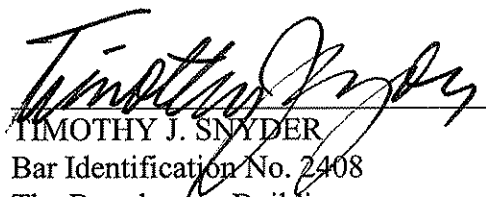
(a) Judgment entered as set out in the proposed Order and Judgment attached to this Motion.

(b) Such other and further relief as the Court deems just, necessary and appropriate.

Respectfully submitted,

YOUNG CONAWAY STARGATT & TAYLOR, LLP

BY:



TIMOTHY J. SNYDER
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Attorney for Plaintiffs

Dated:

July 7, 2005

OF COUNSEL:

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Philadelphia, PA 19106
215-351-0611

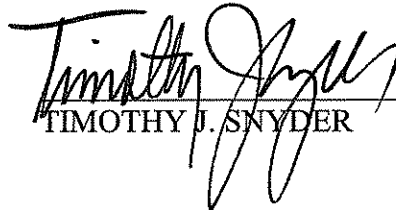
CERTIFICATE OF SERVICE

I, Timothy J. Snyder, state under penalty of perjury that I caused a copy of the foregoing Motion for Judgment by Default by the Court Pursuant to Federal Rule of Civil Procedure 55(b)(2) to be served via first class mail, postage prepaid on the date and to the address below:

Thomas Porter, President
American Mechanical, Inc.
57 McMillian Way
Delaware Industrial Park
Newark, DE 19713

Date:

July 7, 2005


TIMOTHY J. SNYDER